

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JUXTACOMM-TEXAS SOFTWARE, LLC,

PLAINTIFF

vs.

AXWAY, INC., et al.

DEFENDANTS

CIVIL ACTION NO. 6:10-CV-0011 (LED)

JURY DEMANDED

NOTICE OF WITHDRAWAL OF MOTION FOR SUMMARY

**JUDGMENT OF NON-INFRINGEMENT DUE TO EXHAUSTION AND
IMPLIED LICENSE**

Defendants Lawson Software, Inc. and Lawson Software Americas, Inc. (collectively, "Lawson") submit this notice of withdrawal of their motion for summary judgment of non-infringement of U.S. Patent No. 6,195,662 based on the doctrines of exhaustion and implied license. *See* Dkt. No. 407.

Lawson moved for summary judgment of non-infringement to the extent that JuxtaComm contended that certain components of Lawson's products supplied by IBM, a licensee to the patent-in-suit, satisfy certain elements of the claims. As explained in Lawson's opening brief,

any claim of infringement based on these IBM components would be barred under the doctrines of exhaustion and implied license.

In its opposition brief, JuxtaComm has represented that it does not rely on IBM components in connection with its infringement claims in this case. *See, e.g.*, JuxtaComm Opposition Brief (Dkt. No. 571) at 7, fn2 (“Despite Lawson’s assertions, IBM TX is not required to operate for the accused products to operate... In any event, this is a red herring because JuxtaComm’s infringement contentions identify only Lawson-made components.”).

Given JuxtaComm's representation that its infringement claims are based only on "Lawson-made components," and not IBM components, Lawson withdraws this motion without prejudice. Lawson reserves all rights, in the event that JuxtaComm later attempts to in any way rely on IBM technology to prove infringement, to seek any appropriate remedy, including by filing another dispositive motion or by seeking preclusive relief.

Dated: July 20, 2011

Respectfully submitted,

By: /s/ Paul E. Torchia (with permission by Deborah Race)

Paul E. Torchia (Admitted to Practice in the Eastern District of Texas)
Josh A. Krevitt (Admitted to Practice in the Eastern District of Texas)
Steven Kalogeras (Admitted to Practice in the Eastern District of Texas)
Gibson Dunn
200 Park Avenue
New York, NY 10166
Telephone: 212.351.4000
Facsimile: 212.351.4035
jkrevitt@gibsondunn.com
ptorchia@gibsondunn.com
skalogeras@gibsondunn.com

Otis W. Carroll, Jr.
Texas Bar No. 03895700
Deborah Race
Texas Bar No. 16448700
Ireland Carroll & Kelley
6101 S. Broadway
Suite 500
Tyler, TX 75703
Telephone: 903.561.1600
Facsimile: 903.581.1071
Fedserv@icklawn.com

*Attorneys for Defendants Lawson Software,
Inc., and Lawson Software Americas, Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing documents: was filed electronically in compliance with Local Rule CV-5(a). As such, these documents were served on all counsel by electronic service, pursuant to Local Rule CV-5(a)(7)(C), on this 20th day of July 2011.

/s/ Paul E. Torchia

Paul E. Torchia